

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

THERESA M. STARKEY,

Plaintiff,

Case No. 05-C-428

v.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

OPINION AND ORDER

Plaintiff Theresa Starkey filed this action seeking judicial review of the Commissioner of Social Security's final decision denying her social security benefits. Having reviewed the record, the court agrees with the parties that this action must be remanded to the Commissioner for further proceedings. Therefore, the court **ORDERS** that the Commissioner of Social Security's "Motion for Remand for Further Proceedings Pursuant to Sentence Four of 42 U.S.C. § 405(g)" (filed December 23, 2005) IS GRANTED IN PART AND DENIED IN PART.

IT IS FURTHER ORDERED that "Plaintiff's Motion to Reverse or Remand the Decision of the Commissioner of the Social Security Administration" (filed August 11, 2005) IS GRANTED IN PART AND DENIED IN PART.

IT IS FURTHER ORDERED that the final decision of the Commissioner of the Social Security Administration is reversed and that this action is remanded to the Commissioner for further proceedings pursuant to the fourth sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g). Upon remand, the Appeals Council shall

remand this case to the Administrative Law Judge (ALJ) to resolve conflicts between the vocational expert testimony, the hypothetical question and the Plaintiff's residual functional capacity. Specifically, the ALJ shall obtain supplemental evidence from a vocational expert to determine the number of jobs in the economy which an individual with the Plaintiff's residual functional capacity could perform, asking the vocational expert about any conflicts between the testimony and the *Dictionary of Occupational Titles*, and for the purpose of making a step-five finding consistent with 20 C.F.R. 404.1568 and Social Security Rulings 96-9p and 00-4p. In addition, the ALJ shall develop a residual functional capacity for the Plaintiff which considers her symptoms in accordance with 20 C.F.R. 404.1529(c).

IT IS FURTHER ORDERED that the Clerk of Court shall enter a judgment as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

Plaintiff Theresa M. Starkey brought this action seeking judicial review of the final decision of the Commissioner of Social Security which denied her social security benefits, before the court, the Honorable Thomas J. Curran, District Judge, presiding, and the decision of the Commissioner having been reversed,

IT IS ORDERED AND ADJUDGED that this action is remanded to the Commissioner of the Social Security Administration for further proceedings pursuant to Sentence 4 of 42 U.S.C. § 405(g).

Done and Ordered in Chambers at the United States Courthouse,
Milwaukee, Wisconsin, this 11th day of January, 2006.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge